IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 22ND MARCH 2007 / 1ST CHAITHRA 1929

WP(C).No. 9083 of 2007(F)

PETITIONERS:
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1. **THE KAIRALI CO-OPERATIVE HOUSING SOCIETY LIMITED NO. 4354, PANAMPILLY NAGAR, ERNAKULAM REPRESENTED BY IT'S SECRETARY.**

2. **THE PRESIDENT, THE KAIRALI CO-OPERATIVE HOUSING SOCIETY LIMITED NO. 4354, PANAMPILLY NAGAR, ERNAKULAM**

BY ADV. SRI.GEORGE JACOB (JOSE)
SMT.RESHMI POULOSE

RESPONDENTS:
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1. **THE STATE OF KERALA, REPRESENTED BY THE PRINCIPAL SECRETARY, DEPARTMENT OF TAXES, GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.**

2. **THE TAHSILDAR, KANAYANNUR TALUK, ERNAKULAM, (ASSESSING AUTHORITY UNDER THE KERALA BUILDING TAX ACT, 1975).**

3. **MRS. GIRIJA V.NAIR, FLAT NO.11, KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.**

4. **MR.G.KRISHNAN, FLAT NO, 12, KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36**

5. **MRS. RITHA SAGAR, FLAT NO. 12A, KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36**

6. **MR.ROBIN THOMAS, FLAT NO. 14, KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36**

7. **MR.T.N.T. NAYAR, FLAT NO. 15. KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36**

8. MRS. ALAMMA MATHEW, FLAT NO. 16,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

9. MR.C.I.UNNI, FLAT NO. 17,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

10. MRS. SHEELA PRABHAKARAN, FLAT NO. 18,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

11. MRS. ACHAMMA KURIAKOSE, FLAT NO.21,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

12. MR.P.M.ALEXANDER, FLAT NO. 22,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

13. MRS. LALITHA KOSHY, FLAT NO. 24,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

14. MR. K.V.T. THAMPURAN, FLAT NO. 24,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

15. CAPT. GEO MATHEWS, FLAT NO. 25,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

16. MR. R.S. MOOSHAHARY, FLAT NO. 26,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

17. MRS. SOOSAMMA THOMAS, FLAT NO.27,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

18. MR. A.S.NARAYANA MOORTHY, FLAT NO. 28,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

19. MR. RAMESH BABU.S., FLAT NO. 28,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

20. MR.BABU ABRAHAM, FLAT NO. 32,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

21. MR.ANIL KUMAR, FLAT NO. 33,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

22. MRS. SUJA MARIYAM MATHEW, FLAT NO.34,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

23. MRS. LILLY PAUL, FLAT NO. 35,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

24. MR.K.K.GEORGE, FLAT NO.36,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

25. MRS. LATHA THARIYAN, FLAT NO.37,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

26. DR.MOLYKUTTY THOMAS,S FLAT NO.38,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

27. MRS. PONNAMMA CHACKO, FLAT NO.41,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

28. MR.JOHN PAUL V., FLAT NO.42,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

29. MR.JOSEPH KURIAN, FLAT NO.43,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

30. MR.M.MURALIDHARAN NAIR, FLAT NO.44,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

31. MR.T.Z.MANI, FLAT NO.45,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

32. MR.A.V.THOMAS, FLAT NO. 46,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

33. DR.M.K.JAMES, FLAT NO.47,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

34. MRS. LEENA ABRAHAM, FLAT NO. 48,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

35. MR.ABRAHAM V.JOSEPH, FLAT NO.51,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

36. CAPT. ABRAHAM KURUVILLA, FLAT NO. 52,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

37. MRS. SASIKALA RAMAKRISHNAN, FLAT NO. 53,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

38. MR.N.JAYAKRISHNAN NAIR, FLAT NO.54,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

39. MR.JOSEPH GEORGE, FLAT NO. 55,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

40. MR.MARIYAM CHACKO, FLAT NO.56,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

41. MR. THOMAS VETTATH, FLAT NO. 57,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

42. MR.K.T.R.NAMBIAR, FLAT NO. 58,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

43. MRS. SAJINA KURIAN, FLAT NO. 61,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

44. MR.JACOB KURIAN, FLAT NO.62,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

45. MR.K.JACOB, FLAT NO. 63,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

46. MR.T.JOHN, FLAT NO. 64,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

47. MRS. RANI BIJU, FLAT NO. 65,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

48. MRS. LEELA VARGHESE, FLAT NO. 66,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

49. MR. JOSEPH OOMMEN, FLAT NO. 67,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

50. MRS. V.SYAMALA DEVI,FLAT NO. 68,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

51. MRS. JAYASHREE SURESH, FLAT NO. 71,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

52. MR. JOY KALAPURA, FLAT NO. 72,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

53. MR.K.JAYAKUMAR, FLAT NO. 73,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

54. MRS. RUKUMINI MENON, FLAT NO. 74,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

55. MR. M.J.MATHAN, FLAT NO. 75,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

56. MR. LESLEY ABRAHAM, FLAT NO. 76,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

57. MR. UDAY LALAN, FLAT NO.77,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

58. MR. N.V.JOHN, FLAT NO. 78,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

59. MRS. JESSY AMMA BABU, FLAT NO.81,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

60. MR. J.JAYARAM, FLAT NO. 82,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

61. MR. JOEKUMAR JOSEPH, FLAT NO. 83,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

62. MR. DOMINIC SEBASTIAN, FLAT NO. 84,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

63. MRS. EASTHER KURUVILLA, FLAT NO. 85,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

64. MR. GEORGE P. KORAH, FLAT NO. 86,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

65. MRS. AMMINI VIJAYAN, FLAT NO. 87,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

66. MRS. JAYA NAIR, FLAT NO. 88,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

67. MRS. RANI SHAJI JACOB, FLAT NO. 91,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

68. MRS. K.O.CHACKO, FLAT NO. 92,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

69. MRS. P. SANDYA, FLAT NO. 93,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

70. MRS. P.T.VALSALA DEVI, FLAT NO.94,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

71. MRS. KUMARI KAKKUNNI, FLAT NO. 95,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

72. MRS. LATHA GEORGE, FLAT NO. 96,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

73. MRS. KAMALA JOHN, FLAT NO. 97,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

74. MR. PHILIP KURUVILLA, FLAT NO. 98,
KAIRALI APARTMENTS, PANAMPILLY NAGAR, KOCHI - 36.

BY GOVERNMENT PLEADER SRI. MUHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 9083/2007 F

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE LEDGED FOLIO OF ONE MEMBER WHEREIN ALL REMITTANCES MADE HAD BEEN INCORPORATED.

EXT.P2. COPY OF THE COMMUNICATION DT. 20/12/2006 BY THE R2.

EXT.P3. COPY OF THE LETTER DT. 5/1/2007 BY THE P1.

EXT.P4. COPY OF THE ASSESSMENT NOTICE DT. 18/1/2007 BY THE R2.

EXT.P5. COPY OF THE LETTER DT. 13/2/2007 BEFORE THE R2.

EXT.P6. COPY OF THE ASSESSMENT ORDER DT. 21/2/2007 OF THE R2.

EXT.P7. COPY OF THE DEMAND NOTICE DT. 21/2/2007 TO THE PETITIONERS.

EXT.P8. COPY OF THE SALE DEED DT. 16/2/87 EXECUTED IN FAVOUR OF ONE SRI. JAYAKRISHNAN NAIR.

EXT.P9. COPY OF THE RELEVANT EXTRACT OF THE JUDGMENT DT. 13/3/2007 OF THE DIVISION BENCH OF THIS COURT.

True copy

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K.BALAKRISHNAN NAIR,J.

WP(C)NO.9083 OF 2007-F

Judgment

The petitioners have been served with Ext.P6 assessment order, which is in a printed format, along with Ext.P7 demand notice. No proceedings, assessing tax, dealing with the objection of the petitioners have been served on them and therefore, they are disabled from filing an appeal. Further, in the case of Housing Co-operative Societies, the societies advance loans to their members and from the loan amount, the construction cost is met. In other words, the Societies do not normally construct the house and sell it to their members. Therefore, the assessment should normally be of the individual flats. But, none of these aspects is discernible in Ext.P6 assessment order in the printed form. In view of the above position, Exts.P6 and P7 are quashed and the 2nd respondent is directed to pass fresh orders in the matter after affording an opportunity of being heard to the petitioners and the individual flat owners within three months from the date of receipt of a copy of this Judgment. The order shall be a speaking order, dealing with the contentions of the parties.

The Writ Petition is disposed of as above.

22.03.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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